Supreme Court, U. S.
FILED
OCT 22 1980
MICHAEL RODAK, JR., CLERK

No. 80-296

SUPREME COURT OF THE UNITED STATES

OCTOBER 1980 TERM

EMPRESAS ELECTRONICAS WALSER, INC.
ROBERT J. WALSER AND GEORGIA M. COLON DE WALSER

PETITIONERS

vs.

THE UNITED STATES

RESPONDENT

ON WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF CLAIMS

REPLY TO MEMORANDUM OF THE UNITED STATES IN OPPOSITION

ROBERT J. WALSER, ESQ.
GPO Box AL
San Juan, Puerto Rico 00936
(809) 722-0111
Attorney for petitioner

TABLE OF AUTHORITIES

none cited

SUPREME COURT OF THE UNITED STATES

OCTOBER 1980 TERM

EMPRESAS ELECTRONICAS WALSER, INC.
ROBERT J. WALSER AND GEORGIA M. COLON DE WALSER

PETITIONERS

vs.

THE UNITED STATES

RESPONDENT

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS

CASE 80-296

REPLY TO MEMORANDUM OF THE
UNITED STATES IN OPPOSITION

Defendant United States filed on 10 Oct. 1980, copy received by petitioner 20 Oct. 1980, a Memorandum in Opposition to Petitioners Petition for Certiorari. Petitioner submits this Reply to clarify certain points raised by defendant.

On page 2, defendant states that petitioner defaulted on an Air Force Contract and incurred some $22,000 liability for excess reprocurement costs. The Air Force contract was awarded by an SBA COC to manufacture units similar to those of the SBA COC Army contract, subject of this action. For these two contracts, design and production plans were completely integrated, with the knowledge and approval of SBA.

On 31 Aug. 1971 the Air Force contract was on schedule. When SBA denied the Army/COC contract on that day, 31 Aug 1971, this integration of the two contracts made it impossible to complete the Air Force contract as planned.

The Air Force contract cancellation was made the same day that the SBA actions forced the EEW factory to close, 29 Oct. 1971. This cancellation is a direct result of the SBA actions. Petitioners' claim on SBA for damages includes the $22,000 owed to Air Force. Petitioner had a perfect record of delivery on US contracts prior to the 31 Aug 1971 SBA denial of a COC.

On page 3, defendant United States states that the Court of Claims decision is based on facts as stated by the petitioner. Indeed, the Court of Claims decision makes this same statement, and then proceeds to ignore the same facts. In the Petition for Certiorari, pages 12 & 13, petitioner shows that the Court of Claims version of procedures necessary to issue a COC is in error, contrary to law.

The statement by United States page 4, footnote 4,

> "..it is highly speculative whether petitioner in view of his record would have been deemed a responsible bidder and awarded the Army contract..."

is <u>not true</u>. Petitioner had a perfect record to this point. Both Army and SBA have stipulated on file that all other elements of award were approved, <u>only</u> capacity and credit were pending. If SBA had issued the COC, the contract would have been awarded.

Petitioner reiterates that his case has never been to trial, that the summary decision is in error, and that he, perhaps like many other small businesses,

has never been allowed to show in a court of justice how the actions of SBA formed an obligation of the United States, and how the violation of that obligation caused terrible damages on a young and growing electronics firm.

20 Oct. 1980

Robert J. Walser
attorney for petitioner
GPO Box AL
San Juan, PR 00936
(809) 722-0111